

# CHAPTER 2

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## Countywide Policies

### 2.1 ALUPP Time Frame

According to State law, the Airport Land Use Policy Plan (ALUPP) is “long range” – approximately twenty years. This time frame is a general guideline, as the ALUPP in fact contains various components of differing life spans. Among the components hardest to estimate are future noise levels near an airport because of uncertainties as to the number of future flights, future fleet mix noise levels, etc. Periodic adjustment of the ALUPP can be expected in order to reflect changes in anticipated airport impacts, revisions in state and federal law and regulations, and new experience gained concerning the suitability of guidelines set by the Airport Land Use Commission (ALUC).

### 2.2 Definitions

Definitions of terms for the purposes of the policies set forth in this document are as follows (Caltrans, 2002). Additional definitions are found in the *Glossary*.

Aeronautics Act: Sections 21670 et seq. of the California Public Utilities Code.

Airport: An area of land or water that is used or intended to be used for the landing and taking off of aircraft, and includes its buildings and facilities, if any.

Airport Influence Area (AIA): The area in which current or future airport-related noise, overflight, safety, and/or airspace protection factors may significantly affect land uses or necessitate restrictions on those uses. In most circumstances, the airport influence area is designated by the ALUC as its *planning area boundary* for the airport and the two terms can be considered synonymous.

Airport Land Use Commission (ALUC): A commission authorized under the provisions of the California Public Utilities Code, Sections 21670 et seq. and established (in any county within which a public-use airport is located) for the purpose of promoting compatibility between airports and the land uses surrounding them.

Airport Land Use Policy Plan (ALUPP): As used herein, a plan, usually adopted by an ALUC, which sets forth policies for promoting compatibility between airports and the land uses which surround them. (Also referred to as a *Comprehensive Land Use Plan (CLUP)*.)

Aviation-Related Use: Any facility or activity directly associated with the air transportation of persons or cargo or the operation, storage, or maintenance of aircraft at an

airport or heliport. Such uses specifically include runways, taxiways, and their associated protected areas defined by the Federal Aviation Administration (FAA), together with aircraft aprons, hangars, fixed base operations facilities, terminal buildings, etc.

Avigation Easement: A type of easement that typically conveys the following rights:

- A right-of-way for free and unobstructed passage of aircraft through the airspace over the property at any altitude above a surface specified in the easement (usually set in accordance with the FAR Part 77 criteria).
- A right to subject the property to noise, vibrations, fumes, dust, and fuel particle emissions associated with normal airport activity.
- A right to prohibit the erection or growth of any structure, tree, or other object that would enter the acquired airspace.
- A right-of-entry onto the property, with proper advance notice, for the purpose of removing, marking, or lighting any structure or other object that enters the acquired airspace.
- A right to prohibit electrical interference, flare, misleading lights, visual impairments, and other hazards to aircraft flight from being created on the property.

Community Noise Equivalent Level (CNEL): The noise metric adopted by the State of California for evaluating airport noise. It represents the average noise level during a 24-hour day, adjusted to an equivalent level to account for the lower tolerance of people to noise during evening and nighttime periods relative to the daytime period.

Compatibility Zone: Any of the airport influence area zones set forth in this ALUPP for the purposes of determining land use compatibility.

Existing Land Use: A land use that either physically exists or else for which government approvals have been obtained through one or more of the following: (a) a valid building permit has been issued; (b) a development agreement has been approved and remains in effect; (c) a tentative parcel or subdivision map has been approved and the original period, excluding extensions, within which the approval is valid and has not expired; (d) a vesting tentative parcel or subdivision map has been approved; (e) a final subdivision map has been recorded; or (f) a use permit or other discretionary entitlement has been approved and not yet expired.

Federal Aviation Regulations (FAR) Part 77: The part of the Federal Aviation Regulations that addresses objects affecting navigable airspace.

Height Review Overlay Zone: The area around an airport where the ground lies above a FAR Part 77 plane or less than 35 feet beneath a FAR Part 77 plane.

Helipad: A small, designated area, usually with a prepared surface, on a heliport, airport, landing / takeoff area, apron / ramp, or movement area used for takeoff, landing, or parking of helicopters.

Heliport: A facility used for operating, basing, housing, and maintaining helicopters.

**Infill:** Development that takes place on vacant property largely surrounded by existing development, especially development that is similar in character.

**Local Jurisdiction:** Alameda County or any city or other government agency (excluding state and federal agencies) having jurisdiction over land uses within their boundaries.

**Nonconforming Use:** An existing land use that does not conform to subsequently adopted or amended zoning or other land use development standards.

**Project (Land Use Action, Development Proposal):** Any proposed action under consideration by a local public agency or airport operator that is subject to ALUC review. Under State Law, such actions include amendment of a general or specific plan or adoption of a zoning ordinance or building regulation by a local public agency that affects land use within an AIA. It includes plans for proposed new airports or heliports and modification of an airport master plan by the airport owner. As specified by State Law, under certain circumstances a project may include other proposed local agency actions, regulations, or permits.

## 2.3 Geographic Scope of This ALUPP

### 2.3.1 Airport Influence Area

The airport influence area (AIA), also commonly referred to as the airport referral area, is the area in which current or future airport-related noise, overflight, safety, and/or airspace protection factors may significantly affect land uses or necessitate restrictions on those uses, as well as lands on which the uses could negatively affect the airport(s) in question. The following public use airports in Alameda County are the subject of this document: Hayward Executive Airport (HWD), Livermore Municipal Airport (LVK), and Oakland International Airport (OAK).

The specific limits of the AIA of each airport are shown in Chapters 3, 4, and 5. For a discussion of noise, height, and safety impacts and how those issues affect the areas in which this ALUPP applies, see Appendix A.

### 2.3.2 Countywide Impacts on Flight Safety

Other lands, regardless of their location in the County, on which certain land use characteristics could adversely affect the safety of flight in the County is included in this ALUPP. Specifically, any proposal for construction of any structure (including antennas) in the County that rises 200 feet above the ground level at the site is included in this ALUPP.

### 2.3.3 New Airports

The site and environs of any new airport that may be proposed anywhere in the County, including incorporated cities, and which requires an Airport Permit from the California Department of Transportation (Caltrans) Aeronautics Division is included in this ALUPP.

## 2.3.4 Heliports and Helipads

The site and environs of any existing or proposed public-use, private-use, or special-use heliport or helipad (as defined by Caltrans) in the County, including incorporated cities are included in this ALUPP.

## 2.4 Types of Actions Reviewed by the ALUC

### 2.4.1 Local Land Use Plans, Projects, and Related Actions

The following types of actions shall be referred to the ALUC for determination of consistency with the ALUPP prior to their approval by the local jurisdiction.

- (a) The adoption or approval of any amendment to a general or specific plan affecting property within an AIA (California Public Utilities Code Section 21676(b)).
- (b) The adoption or approval of a zoning ordinance or building regulation which (1) affects property within an AIA, and (2) involves any of the airport-related concerns listed in Section 1.4 of this ALUPP (California Public Utilities Code Section 21676(b)). Any proposed change or variance to any such ordinance or regulation also must be submitted for ALUC review if issues of noise, safety, airspace protection, and overflight are involved.
- (c) Until such time as the ALUC finds that a local jurisdiction's general plan or specific plan is consistent with the ALUPP, or the local jurisdiction has overruled the ALUC's determination of inconsistency by a two-thirds vote of its governing body, the local jurisdiction shall refer all actions, regulations, and permits involving land within an AIA to the ALUC for review (California Public Utilities Code 21676.5(a)). Only those actions that the ALUC elects not to review are exempt from this requirement.
- (d) After a local jurisdiction has revised its general plan or specific plan for consistency with the ALUPP or has overruled the ALUC by a two-thirds vote of its governing body, the ALUC no longer has authority under state law to require that all actions, regulations, and permits be referred for review. However, the ALUC and the local agency can agree that the ALUC should continue to review individual projects in an advisory capacity.
  - (1) The ALUC requests local jurisdictions to continue to submit major land use actions as listed in Section 2.4.3.
  - (2) Review of these actions is requested only if a review has not previously been conducted as part of a general plan, specific plan, or zoning ordinance action or if sufficient project-level detail to enable a full assessment of compatibility was not available at the time of a previous review.
  - (3) Because the ALUC is acting in an advisory capacity when reviewing projects under these circumstances, local jurisdictions are not required to adhere to the override process if they elect to approve a project without incorporating design changes or conditions suggested by the ALUC.

- (e) Proposed redevelopment of a property within an AIA for which the existing use is consistent with the local general plan and/or specific plan, but nonconforming with the compatibility criteria set forth in this ALUPP.
- (f) Proposed land use actions covered by Sections 2.4.1(a), 2.4.1(b), and 2.4.1(c) shall initially be reviewed by the ALUC Administrative Officer or her or his designee. If the ALUC Administrative Officer determines that significant compatibility issues are evident, the proposal shall be forwarded to the ALUC for review and decision. The ALUC authorizes the ALUC Administrative Officer to approve proposed actions having no apparent compatibility issues.

## 2.4.2 Airport and Heliport Plans

The following types of actions shall be referred to the ALUC for determination of consistency with the ALUPP prior to their approval by the local jurisdiction.

- (a) The adoption or modification of the master plan for an existing public-use airport (California Public Utilities Code Section 21676(c)).
- (b) Any proposal for expansion of an existing airport or heliport not included in that airport or heliports approved master plan if such expansion will require an amended airport permit from the state of California (California Public Utilities Code 21664.5).
- (c) Any proposal for a new airport, heliport, or helipad whether for public use or private use (California Public Utilities Code Section 21661.5) if the facility requires a State Airport Permit.

## 2.4.3 Major Land Use Actions

Although the ALUC does not have the authority under state law to require that all actions, regulations, and permits be referred for review, the ALUC requests that the following types of actions be referred to the ALUC for determination of consistency with the ALUPP prior to their approval by the local jurisdiction.

The scope or character of certain proposed major land use actions, as listed below, is such that their compatibility with airport activity is a potential concern. Even though these actions may be basically consistent with the local general plan or specific plan, sufficient detail may not be known to enable a full airport compatibility evaluation at the time that the general plan or specific plan is reviewed. To enable better assessment of compliance with the compatibility criteria set forth herein, ALUC review of these actions may be warranted. The circumstances under which ALUC review of these actions is to be conducted are indicated in Section 2.4.1.

- (a) Any proposed expansion of the sphere of influence of a city or special district within the AIA.
- (b) Proposed pre-zoning of property within the AIA associated with future annexation of land to a city.

- (c) Proposed residential development within the AIA, including land divisions, consisting of five or more dwelling units or parcels.
- (d) Any discretionary development proposal within the AIA for projects having a building floor area of 20,000 square feet or greater.
- (e) Proposed land acquisition within the AIA by a government entity for any facility accommodating a congregation of people.
- (f) Any obstruction reviewed by the FAA in accordance with FAR Part 77 which receives a finding of anything other than “not a hazard to air navigation.”
- (g) Any project within the AIA having the potential to create electrical or visual hazards to aircraft in flight, including:
  - (1) electrical interference with radio communications or navigational signals;
  - (2) lighting which could be mistaken for airport lighting;
  - (3) glare in the eyes of pilots or aircraft using the airport; or
  - (4) impaired visibility near the airport.
- (h) Projects within the AIA having the potential to attract an increased number of birds to the vicinity of an airport.
- (i) Proposed non-aviation development of airport property if such development has not previously been included in an airport master plan or community general plan reviewed by the ALUC. (See Section 2.1.2 for definition of aviation-related use.)
- (j) Regardless of location within Alameda County, any proposal for construction or alteration of a structure (including antennas) taller than 200 feet above the ground level at the site. (Such structures also require notification to the Federal Aviation Administration in accordance with Federal Aviation Regulations, Part 77, Paragraph 77.13(a)(1).)
- (k) Any other proposed land use action, as determined by the local planning agency, involving a question of compatibility with airport activities.

## 2.5 Review of Land Use Actions

### 2.5.1 General

Proposed actions listed in Section 2.4.3 should be referred to the ALUC at the earliest reasonable point in time so that the ALUC’s review can be duly considered by the local jurisdiction prior to formalizing its actions. The timing may vary; however, all projects must be submitted to the ALUC for review prior to final approval by the local jurisdiction.

## 2.5.2 Public Notice

Where applicable, the ALUC shall provide public notice and obtain public input in accordance with the California Public Utilities Code (Public Utilities Code Section 21675.2(d)) and general plan law (Government Code Section 65090) before action on any plan, regulation, or other land use proposal under consideration.

## 2.5.3 Review Process for Local General Plans

### 2.5.3.1 Initial ALUC Review of General Plan Consistency

In conjunction with adoption of this ALUPP, the ALUC shall review the general plans and specific plans of affected local jurisdictions to determine their consistency with the ALUC's policies.

- (a) Within 180 days of the ALUC's adoption or amendment of the ALUPP, each local jurisdiction must amend its general plan and any applicable specific plan to be consistent with the ALUC's plan or, alternatively, adopt findings and override the ALUC in accordance with Section 21676(b) of the Public Utilities Code (Government Code Section 65302.2).
- (b) Prior to taking action on a proposed amendment to a general plan or specific plan, the local jurisdiction must submit a draft of the proposal to the ALUC for review and approval in accordance with Section 21676(b) of the Public Utilities Code.
- (c) In conjunction with its submittal of a general plan or specific plan amendment to the ALUC, a local jurisdiction may request that the ALUC modify the areas defined as "infill" in accordance with Section 2.5.5.3. The ALUC will include a determination on the infill as part of its action on the consistency of the general plan and specific plans.
- (d) After a local jurisdiction has revised its general plan or specific plan for consistency with the ALUPP, subsequent land use proposals within the AIA (which are consistent with the applicable general plan, specific plans, and zoning ordinances) are subject to ALUC review only under the conditions indicated in Sections 2.4.1 and 2.4.3.

### 2.5.3.2 ALUC Action Choices

When reviewing a general plan, specific plan, zoning ordinance, or building regulation for consistency with the ALUPP, the ALUC has three choices of action:

- (a) Find the plan, ordinance, or regulation consistent with the ALUPP. To make such a finding with regard to a general plan, the conditions identified in Section 2.5.5.2 must be met.
- (b) Find the plan, ordinance, or regulation consistent with the ALUPP, subject to conditions and/or modifications that the ALUC may require.

- (c) Find the plan, ordinance, or regulation inconsistent with the ALUPP. In making a finding of inconsistency, the ALUC shall note the specific conflicts upon which its determination is based.

### **2.5.3.3 Response Time**

The ALUC must respond to a local jurisdiction's request for a consistency determination on a general plan, specific plan, zoning ordinance, or building regulation within 60 days from the date of referral (California Public Utilities Code Section 21676(d)).

- (a) If the ALUC fails to make a determination within that period within that period, the proposed action shall be deemed consistent with the ALUPP.
- (b) Regardless of ALUC action or failure to act, the proposed action must comply with other applicable local, state, and federal regulations and laws.
- (c) The referring agency shall be notified of the ALUC's action in writing.

## **2.5.4 Review Process for Major Land Use Actions**

### **2.5.4.1 Information Required for Review of Proposed Individual Project**

The following requirements apply to voluntary reviews. Voluntary review applies to major land use actions which are referred to the ALUC per Section 2.4.1(d). The information required for ALUC review in items (a) through (f), below, is summarized in Table 2-1.

- (a) Indication, in writing, that the proposed local action is referred to the ALUC for voluntary review and comment only.
- (b) Site maps of the proposed local action.
- (c) The identities of all property owners within the land area encompassed by the proposed local action, and, if any development or development application has been proposed to the referring jurisdiction or is known by the referring jurisdiction to be in preparation in conjunction with the local action, the identities of the applicant or applicants and of the representative(s) thereof.
- (d) A full description and map of the geographic area. The map and description must indicate:
  - (1) The geographic area encompassed by the proposed local action;
  - (2) The assessor's parcel number of all properties involved by the proposed local action;
  - (3) The relationship of the proposed local action to the Airport;
  - (4) The relationship of the proposed local action to the airport land use zones as defined by the ALUPP in force; and



- (5) The relationship of the proposed local action to airport noise contours, as defined by the ALUPP.
- (e) A description of uses, land use densities, residential land use densities, and open space conservation proposed for the local action.
- (f) An analysis of the maximum elevation of improvements (i.e., site elevation plus height of improvements) that would be permissible under the terms and conditions of the proposed local action, and of the relationship of the maximum allowable elevation of improvements to the applicable imaginary airport surfaces as defined in Part 77 of the Federal Aviation Regulations and the minimum instrument approach altitudes, as specified by the U.S. Standards for Terminal Instrument Procedures of any instrument approaches that entail overflight of the property affected.<sup>1</sup>
- (g) An analysis of the location and dimensions of existing potential emergency aircraft landing sites (as defined herein) and of those that would be preserved if development were to occur to the maximum extent permitted under the terms and conditions of the proposed local action.
- (h) A copy of any Initial Study, Environmental Impact Report, Environmental Assessment, Environmental Impact Statement, noise study, or other environmental evaluation prepared or required in conjunction with the proposed local action. When a proposed local action may expose people to existing noise levels or projected noise levels under conditions of maximum build-out and/or airport operation at full capacity that exceeds acceptable limits, and when airport-related noise is contributory to such exposure, either as the sole noise source or as a component of a cumulative noise impact, a noise study shall be required for ALUC review of the proposed local action.
- (i) A written assurance that an aviation easement in a form approved by Alameda County will be required.
- (j) A written assurance that for property within the AIA offered for sale or lease the notice of intention filed with the Department of Real Estate shall include the following:

**NOTICE OF AIRPORT IN VICINITY:** This property is presently located in the vicinity of an airport, within what is known as an airport influence area. For that reason, the property may be subject to some of the annoyances or inconveniences associated with proximity to airport operations (for example: noise, vibration, or odors). Individual sensitivities to those annoyances can vary from person to person. You may wish to consider what airport annoyances, if any, are associated with the property before you complete your purchase and determine whether they are acceptable to you.

Failure to provide the ALUC with required information for any proposed local action shall constitute sufficient grounds for a determination of inconsistency.

<sup>1</sup> The U.S. Standards for Terminal Instrument Procedures (TERPS) are contained in FAA Order 8260.3B CHG 19 (5/15/02).

**TABLE 2-1  
INFORMATION REQUIRED FOR  
AIRPORT LAND USE COMMISSION REVIEW OF PROPOSED LOCAL ACTION**

	GP	SP	ZO	BR	IP
Indication (in writing) that the proposed local action is referred to the ALUC for mandatory review under the provisions of the State of California Public Utilities Code	Yes	Yes	Yes	Yes	No
Indication (in writing) that the proposed local action is referred to the ALUC for optional review and comment	No	No	No	No	Yes
Full text of the proposed referring agency action	Yes	Yes	Yes	Yes	N/A
Site map of the proposed local action	N/A	N/A	N/A	N/A	Yes
Map and verbal description including:					
The Airport(s)	Yes	Yes	Yes	N/A	Yes
The Airport Land Use Zones, as defined by the current ALUPP	Yes	Yes	Yes	N/A	Yes
The projected 55 dB CNEL, 60 dB CNEL, and 65 dB CNEL noise contours, as defined by the current ALUPP	Yes	Yes	Yes	N/A	Yes
The imaginary surfaces defined by FAR, Part 77	Yes	Yes	Yes	N/A	Yes
Planned/published instrument approaches and departures	Yes	Yes	Yes	N/A	Yes
Emergency aircraft landing sites currently existing within the area	Yes	Yes	Yes	N/A	Yes
A complete listing of land uses allowable under the current general plan, specific plan, or zoning ordinance	Yes	Yes	Yes	N/A	N/A
A complete listing of land uses allowable under the proposed general plan, specific plan, or zoning ordinance	Yes	Yes	Yes	N/A	N/A
A description of all land uses and land use densities proposed for the project site	N/A	N/A	N/A	N/A	Yes
Analysis of the maximum elevation of allowable or proposed improvements and relationship to the heights of FAR Part 77 surfaces and minimum allowable instrument approach altitudes	Yes	Yes	Yes	Yes	Yes
Plan for preservation of emergency landing sites for aircraft (for plans/projects greater than 11 acres)	Yes	Yes	Yes	N/A	Yes
Any/all environmental studies or noise studies prepared or required to be prepared in conjunction with the proposed local action	Yes	Yes	Yes	N/A	Yes
Assurance that aviation easement to be required	Yes	Yes	Yes	N/A	Yes
Copy of real estate disclosure document to be required	Yes	Yes	Yes	N/A	Yes
ABBREVIATIONS:    Yes – Information is required    No – Information is not required    N/A – Not applicable GP – General Plan or General Plan Amendment    SP – Special Plan or Special Plan Amendment ZO – Zoning ordinance    BR – Building regulation    IP – Individual Project					

### 2.5.4.2 ALUC Administrative Officer's Choices

When reviewing major land use actions the ALUC Administrative Officer has two choices of action:

- (a) Find that the proposed project does not contain characteristics likely to result in inconsistencies with the compatibility criteria set forth in this ALUPP. The ALUC Administrative Officer is authorized to approve such projects on behalf of the ALUC.
- (b) Find that the proposed project may be inconsistent with the ALUPP. The ALUC Administrative Officer shall forward any such project to the ALUC for a consistency determination.

### 2.5.4.3 ALUC Action Choices

The ALUC has three choices of action when reviewing a major land use project proposal:

- (a) Find the project consistent with the ALUPP.
- (b) Find the project consistent with the ALUPP, subject to compliance with such conditions as the ALUC may require. Any such conditions should be limited in scope and be described in a manner which allows compliance to be clearly assessed (e.g., the height of a structure).
- (c) Find the project inconsistent with the ALUPP. In making a finding of inconsistency, the ALUC shall note the specific conflicts upon which its determination is based.

### 2.5.4.4 Response Time

State law does not set a time limit for ALUCs to review land use actions other than amendment of a general plan or specific plan or the addition or approval of a zoning ordinance or building regulation. Nevertheless, the policy of the Alameda County ALUC is that:

- (a) Reviews by the ALUC Administrative Officer shall be completed within 21 days of when a complete application is submitted, as determined by the ALUC Administrative Officer.
- (b) Reviews of projects forwarded to the ALUC for a consistency determination shall be completed within 60 days of the date of project referral by the local agency.
- (c) The date of referral is deemed to be the date on which all applicable project submittal information as listed in Section 2.5.4.1 is received by the ALUC Administrative Officer.
- (d) If the ALUC Administrative Officer or the ALUC fails to make a determination within the above time periods, the proposed action shall be deemed consistent with the ALUPP.
- (e) Regardless of action or failure to act on the part of the ALUC Administrative Officer or the ALUC, the proposed action still must comply with other applicable local, state, and federal regulations and laws.
- (f) The referring agency shall be notified of the ALUC Administrative Officer's and/or the ALUC's action in writing.

### 2.5.4.5 Subsequent Review

Once a project has been found consistent with the ALUPP, it need not be referred for review at subsequent stages of the planning process (e.g., for a use permit after a zoning change has been reviewed) unless:

- (a) Insufficient information was available at the time of the ALUC's original review of the project to assess whether the proposal would be fully in compliance with compatibility criteria (e.g., the site layout and structure height might not be known at the time a general plan change or zoning amendment is requested).
- (b) The design of the project subsequently changes in a manner that could raise questions as to the validity of a previous finding of compatibility. Changes warranting review include, but are not limited to, the following:
  - (1) an increase in the number of dwelling units proposed for the site;
  - (2) a proposed increase in intensity of use (more people on the site);
  - (3) incorporation of clustering or modifications to the configuration of open land areas proposed for the site; and/or
  - (4) a proposed increase in the height of structures or other design features.
- (c) The local jurisdiction concludes that further review is warranted.
- (d) The ALUC requests further review at a date later in the approval process.

## 2.5.5 Review Criteria for Land Use Actions

### 2.5.5.1 Primary Land Use Compatibility Criteria

The Safety Zone Compatibility Summary table (see Table 2-2) represents a compilation of compatibility criteria associated with overflight, safety, and airspace protection impacts. The primary criteria for assessing whether a land use plan, ordinance, or development proposal is to be judged compatible with a nearby airport are set forth in this table. Additional factors pertaining to the review of general plans shall also be taken into account.

For the purposes of reviewing proposed amendments to county or city land use plans and zoning ordinances, as well as in the review of most individual development proposals, the criteria in the summary table are anticipated to suffice. However, certain complex land use actions may require more intensive review. The ALUC may refer to the supporting criteria, as listed in Chapters 3 through 5, to clarify or supplement its review of such actions.

### 2.5.5.2 General Plan Consistency with ALUPP

In order for a general plan to be considered consistent with the ALUPP, both of the following must be accomplished:

- (a) No direct conflicts can exist between the two plans. Direct conflicts primarily involve general plan land use designations which do not meet the density or intensity criteria specified in the ALUPP although conflicts with regard to other policies also may exist. Note, however, that a general plan cannot be found inconsistent with the ALUPP because of land use designations that reflect existing land uses even if those designations conflict with the ALUC's compatibility criteria. Because ALUCs have no authority over existing land uses, general plan land use designations that merely reflect the existing uses for such parcels are, in effect, excluded from requirements for general plan consistency with the ALUC plan. This exception is applicable only if the general plan includes policies setting limitations on expansion and reconstruction of nonconforming uses consistent with Section 2.5.5.3.
- (b) Provisions must be made for evaluation of proposed land use development situated within an AIA relative to the compatibility criteria set forth in the ALUPP.
  - (1) Even if the land use designations in a general plan have been deemed consistent with the ALUPP, evaluation of the proposed development relative to the land use designations alone is usually insufficient. General plans typically do not contain the detailed airport land use compatibility criteria necessary for a complete compatibility evaluation of proposed development.
  - (2) Local jurisdictions have the following choices, or a combination thereof, for satisfying this evaluation requirement:
    - (a) The general plan and/or referenced implementing ordinances and regulations must contain sufficient detail to enable the local jurisdiction to assess whether a proposed development fully meets the compatibility criteria specified in the ALUPP (this requires both that the compatibility criteria be identified and that project review procedures be described);
    - (b) The ALUPP must be adopted by reference (additionally, the project review procedure must be described in a separate instrument presented to and approved by the ALUC); and/or
    - (c) The general plan must indicate that all major land use actions, as listed in Section 2.4.3 or otherwise agreed to by the ALUC, shall be referred to the ALUC for review in accordance with the policies of Section 2.5.4.
  - (3) The status of ALUC review of major land use actions depends upon which of the preceding options the local jurisdiction selects for making its general plan consistent with the ALUPP. This status, in turn, affects whether a local jurisdiction would be required to use the override process in the event of a disagreement with the ALUC's action.

If either of the first two options listed in Section 2.5.5.2(b)(2) is selected, then referral of major land use actions to the ALUC is voluntary. In this case, the ALUC's review is advisory and the local jurisdiction would not need to use the override process if it elects to approve a project without incorporating the ALUC's comments.

If the third option listed in Section 2.5.5.2(b)(2) is selected, submittal of major land use actions for ALUC review is mandatory and override procedures would apply.

### 2.5.5.3 Special Conditions

- (a) **Infill.** Where development not in conformance with this ALUPP already exists, additional infill development of similar land uses may be allowed to occur even if such land uses are to be prohibited elsewhere in the AIA.
  - (1) A parcel can be considered for infill development if it meets all of the following criteria plus the applicable provisions of either Sections 2.5.5.3(a)(2) or 2.5.5.3(a)(3) below:
    - (a) The parcel size is no larger than 20 acres.
    - (b) The site is at least 65% bounded (disregarding roads) by existing uses similar to, or more intensive than, those proposed.
    - (c) The proposed project would not extend the perimeter of the area defined by the surrounding, already developed, incompatible uses.
    - (d) Further increases in the density, intensity, and/or other incompatible design or usage characteristics (e.g., through use permits, density transfers, addition of second units on the same parcel, height variances, or other strategy) are not included.
    - (e) The area to be developed cannot previously have been set aside as open land in accordance with open land policies presented in Chapters 3 through 5 of this ALUPP unless replacement open land is provided within the same compatibility zone.
  - (2) For residential development, the density of the parcel proposed for development shall not exceed the following:
    - (a) If the size of the parcel is 10 acres or less, the development density shall be not exceed the total density represented by all existing lots that lie fully or partially within a distance of 300 feet from the boundary of the parcel to be divided.
    - (b) If the size of the parcel is greater than 10 acres (but no larger than 20 acres), then the development density shall be no greater than double the density permitted in accordance with the Safety Zone Compatibility Summary (see Table 2-2).
  - (3) For non-residential development:
    - (a) If the size of the parcel proposed for development is 10 acres or less, the usage intensity (the number of people per acre) of the proposed use shall be no greater than the average intensity of all existing uses that lie fully or partially within a distance of 300 feet from the boundary of the proposed development.

- (b) If the size of the parcel proposed for development is greater than 10 acres (but no larger than 20 acres), the proposed use shall not have an intensity (the number of people per acre) more than 50% above the intensity permitted in accordance with the Safety Zone Compatibility Summary table (see Table 2-2).
- (4) To avoid the ripple effect of infill development on some parcels permitting additional parcels subsequently to qualify for infill, the ALUC's intent is that parcels eligible for infill be determined just once. Thus, in order for the ALUC to consider proposed development under these infill criteria, the local jurisdiction having land use authority (Alameda County or affected cities) must first identify the qualifying locations in its general plan or other adopted planning document that has been found consistent with the ALUPP by the ALUC. This action may take place in conjunction with the process of amending a general plan for consistency with the ALUC plan or may be submitted by the local jurisdiction for consideration by the ALUC at the time of adoption of this ALUPP. In either case, the burden for demonstrating that a proposed development qualifies as infill rests with the project proponent and/or local jurisdiction.
- (b) Nonconforming Uses. Uses not in conformance with this ALUPP may only be expanded as follows:
  - (1) Nonconforming residential uses may be expanded in building size provided that the expansion does not result in more dwelling units than currently exist on the parcel.
  - (2) A nonconforming nonresidential development may be continued, modified, transferred, or sold, provided that no such use shall be expanded in area or increased in intensity (the number of people per acre) above the levels existing at the time of adoption of this ALUPP.
  - (3) Any proposed expansion of a nonconforming use (in terms of the number of dwelling units or people on the site) shall be subject to ALUC review. Factors to be considered in such reviews include whether the development qualifies as infill or warrants approval because of other special conditions.
- (c) Reconstruction. An existing nonconforming development that has been fully or partially destroyed as the result of a calamity may be rebuilt only under the following conditions:
  - (1) Nonconforming residential uses may be rebuilt provided that the expansion does not result in more dwelling units than existed on the parcel at the time of the damage.

**TABLE 2-2  
SAFETY ZONE COMPATIBILITY SUMMARY**

	Zone 1	Zone 2	Zone 3	Zone 4	Zone 5	Zone 6
<b>Agriculture</b>						
Truck and Specialty Crops	O	O	O	O	O	O
Field Crops (except corn and other stalk crops)	O	O	O	O	O	O
Field Crops (corn and other stalk crops)	X	X	O	O	O	O
Pasture and Rangeland	O	O	O	O	O	O
Orchards and Vineyards	X	X	O	O	O	O
Dry Farm and Grain	O	O	O	O	O	O
Tree Farms, Landscape Nurseries, and Greenhouses	X	X	O	O	O	O
Fish Farms	X	X	O	O	O	O
Feed Lots and Stockyards	X	X	O	O	O	O
Poultry Farms	X	X	C	C	O	O
Dairy Farms	X	X	O	O	O	O
<b>Natural Uses</b>						
Forest Reserves	X	X	O	O	O	O
Fish and Game Reserves	X	X	O	O	O	O
Land Reserves and Open Space	O	O	O	O	O	O
Waterways – Rivers, Creeks, Canals, Swamps, Bays, Lakes	O	O	O	O	O	O
<b>Residential and Institutional</b>						
Rural Residential (5 acres or more)	X	X	O	O	O	O
Suburban Residential (5 acres or less)	X	X	X	C	C	O
Single Family Residential (6000 square feet or more)	X	X	X	C	C	O
Multi-Family Residential	X	X	X	X	C	O
Mobile Home Parks	X	X	X	C	C	O
Schools, Colleges, and Universities	X	X	X	X	C	C
Hospitals	X	X	X	X	C	O
Churches	X	X	X	X	C	O
<b>Recreational</b>						
Golf Courses	O	O	O	O	O	O
Parks	O	O	O	O	O	O
Playgrounds and Picnic Areas	O	O	O	O	O	O
Athletic Fields	X	X	X	C	C	O
Riding Stables and Trails	X	X	O	O	O	O
X – Prohibited    O – Compatible    C – Conditionally Approvable						

Zone 1: Runway Protection Zone  
 Zone 2: Inner Approach / Departure Zone  
 Zone 3: Inner Turning Zone

Zone 4: Outer Approach / Departure Zone  
 Zone 5: Sideline Zone  
 Zone 6: Traffic Pattern Zone



**TABLE 2-2  
SAFETY ZONE COMPATIBILITY SUMMARY (CONT.)**

	Zone 1	Zone 2	Zone 3	Zone 4	Zone 5	Zone 6
<b>Recreational (cont.)</b>						
Marinas	O	O	O	O	O	O
Tennis Courts	O	O	O	O	O	O
Outdoor Theaters	X	X	X	X	C	O
Swimming Pools	O	O	O	O	O	O
Fairgrounds	X	X	X	X	C	O
<b>Commercial Uses</b>						
Aircraft Sales and Repairs	O	O	O	O	O	O
Flying Schools	C	C	C	C	C	O
Hotels and Motels	X	X	X	C	C	O
Shopping Centers	X	X	X	C	O	O
Banks	X	X	X	O	O	O
Auto Storage and Parking	O	O	O	O	O	O
Office Buildings	C	C	C	C	C	O
Theaters and Auditoriums	X	X	X	C	O	O
Casinos	X	X	X	C	O	O
Public Buildings	C	C	C	C	O	O
Taxi, Bus Stations, and Terminals	X	X	X	O	O	O
Memorial Parks	X	X	X	O	O	O
Pet Cemeteries	X	X	X	O	O	O
Restaurant and Food Take-Out	C	C	C	C	O	O
Retail Stores	C	C	C	C	O	O
Truck Terminals	O	O	O	O	O	O
Other Service Uses	C	C	C	C	O	O
<b>Industrial</b>						
Research Laboratories	C	C	C	C	O	O
Warehouses	O	O	O	O	O	O
Aircraft Factories	C	C	C	O	O	O
Non-Air Related Manufacturing	C	C	C	O	O	O
Rail Sidings	O	O	O	O	O	O
Other Transportation Parks	O	O	O	O	O	O
X – Prohibited      O – Compatible      C – Conditionally Approvable						

Zone 1: Runway Protection Zone  
 Zone 2: Inner Approach / Departure Zone  
 Zone 3: Inner Turning Zone

Zone 4: Outer Approach / Departure Zone  
 Zone 5: Sideline Zone  
 Zone 6: Traffic Pattern Zone

**TABLE 2-2  
SAFETY ZONE COMPATIBILITY SUMMARY (CONT.)**

	Zone 1	Zone 2	Zone 3	Zone 4	Zone 5	Zone 6
<b>Utilities</b>						
Roadways	C	C	O	O	O	O
Reservoirs	C	C	O	O	O	O
Water Treatment	C	C	O	O	O	O
Sewage Disposal	C	C	O	O	O	O
Petroleum and Chemical Products – Bulk Storage	C	C	C	O	O	O
Electrical Plants	X	X	C	O	O	O
Power Lines	C	C	C	O	O	O
X – Prohibited    O – Compatible    C – Conditionally Approvable						

Zone 1: Runway Protection Zone

Zone 2: Inner Approach / Departure Zone

Zone 3: Inner Turning Zone

Zone 4: Outer Approach / Departure Zone

Zone 5: Sideline Zone

Zone 6: Traffic Pattern Zone

**TABLE 2-2  
SAFETY ZONE COMPATIBILITY SUMMARY (CONT.)**

## Interpretation of Land Use Matrix Designations

If all of the General Airport Land Use Compatibility Criteria are met, the designations listed in the Land Use Matrix should be interpreted as follows:

- *Compatible* – Compatible land uses are designated in the Land Use Matrix by the symbol “O”. The proposed land use is not considered to present a significant risk to the safety of persons on the ground or in aircraft overflying the proposed use, nor to create noise or overflight concerns which would interfere with the normal operation of the Airport.
- *Conditionally Approvable* – Conditionally Approvable land uses (also referred to as “Conditionally Compatible”) are designated in the Land Use Matrix by the symbol “C”. Land uses designated as Conditionally Approvable are not compatible with current and projected Airport operations unless and until specific actions are taken by the ALUC to render such uses compatible. The requirements that must be met in order for a Conditionally Approvable use to be rendered as “Compatible” are:
  - a. the ALUC must examine the proposed use prior to approval; and
  - b. conditions must be attached which will render the “Conditionally Compatible” use “Compatible”.

The criteria that must be considered by the ALUC in determining the appropriate conditions with regard to “Conditionally Compatible” land uses are:

- a. the locations of the proposed use in relation to the Airport;
- b. the density of population generated by the proposed use;
- c. the noise zone in which the use is situated; and
- d. the location in relationship to the flight paths.

In addition, the ALUC may also consider such other information as the ALUC shall consider relevant. In the event that the ALUC determines that conditions cannot be formulated that will be adequate to render a proposed Conditionally Acceptable land use as compatible with present and future Airport operations, such proposed Conditionally Acceptable land use will not be rendered consistent with the ALUP.

- *Prohibited* – Prohibited land uses are designated in the Land Use Matrix by the symbol “X”. The proposed land use is considered to present safety, noise, obstruction, or overflight concerns that are of a magnitude that would be incompatible or potentially incompatible with the normal operation of the Airport.

- (2) A nonconforming nonresidential development may be rebuilt, even if completely destroyed, provided that the reconstruction does not increase the floor area of the previous structure or result in an increased intensity of use (i.e., more people per acre).
  - (3) Reconstruction under Sections 2.5.5.3(c)(1) or 2.5.5.3(c)(2) above must begin within 12 months and be completed within 24 months of the date that the damage occurred. Upon request, the ALUC may grant an extension to these time limits.
  - (4) The above exceptions do not apply where such reconstruction would be in conflict with a county or city general plan or zoning ordinance.
  - (5) Nothing in Sections 2.5.5.3(c)(1) through 2.5.5.3(c)(4) is intended to preclude work required for normal maintenance and repair.
- (d) Development by Right. Nothing in these policies prohibits construction or alteration of a single-family home on a legal lot of record if such use is permitted by local land use regulations. Construction of other types of uses also may proceed if local government approvals, based upon previous ALUC compatibility criteria and project review, effectively qualify the development as existing.
- (e) Parcels Lying within Two or More Compatibility Zones. For the purposes of evaluating consistency with the compatibility criteria set forth herein, any parcel that is split by compatibility zone boundaries shall be considered as if it were multiple parcels divided at the compatibility zone boundary line. However, the intensity of development allowed within the more restricted portion of the parcel can (and is encouraged to) be transferred to the less restricted portion even if the resulting development in the latter area then exceeds the criteria for that compatibility zone.
- (f) Other Special Conditions. The compatibility criteria set forth in this plan are intended to be applicable to all locations within each AIA. However, it is recognized that there may be specific situations where a normally incompatible use can be considered compatible because of terrain, specific location, or other extraordinary factors or circumstances related to the site.
- (1) After due consideration of all the factors involved in such situations, the ALUC may find a normally incompatible use to be acceptable.
  - (2) In reaching such a decision, the ALUC shall make specific findings as to why the exception is being made and that the land use will not create a safety hazard to people on the ground or aircraft in flight nor result in excessive noise exposure for the proposed use. Findings also shall be made as to the nature of the extraordinary circumstances that warrant the policy exception.
  - (3) The burden for demonstrating that special conditions apply to a particular development proposal rests with the project proponent and/or the referring agency, not with the ALUC.
  - (4) The granting of a special conditions exception shall be considered site specific and shall not be generalized to include other sites.

- (5) Special conditions that warrant general application in all or part of the AIA of one airport, but not at other airports, are set forth in Chapters 3 through 5 of this ALUPP.

## **2.6 Review of Airport Master Plans and Development Plans**

### **2.6.1 Review Process**

#### **2.6.1.1 Project Submittal Information**

An airport master plan or development plan submitted to the ALUC for review shall contain sufficient information to enable the ALUC to adequately assess the noise, overflight, safety, and airspace protection impacts of airport activity upon surrounding land uses. A master plan report should be submitted, if available.

- (a) At a minimum, information to be submitted shall include:
  - (1) A layout plan drawing of the proposed facility showing the location of:
    - (a) property boundaries;
    - (b) runways or helicopter takeoff and landing areas;
    - (c) runway or helipad protection zones; and
    - (d) aircraft or helicopter approach/departure flight routes.
  - (2) Airspace surfaces in accordance with Federal Aviation Regulations, Part 77.
  - (3) Activity forecasts, including the number of operations by each type of aircraft proposed to use the airport, the percentage of day versus night operations, and the distribution of takeoffs and landings for each runway direction.
  - (4) Proposed flight track locations and projected noise contours or other relevant noise impact data.
  - (5) A map showing existing and planned land uses in the areas affected by aircraft activity associated with implementation of the proposed master plan or development plan.
  - (6) Any environmental document (initial study, draft environmental impact report, etc.) that has been prepared for the project.
  - (7) Identification and proposed mitigation of impacts on surrounding land uses.
- (b) Any applicable review fees as established by the ALUC shall accompany the application.

### **2.6.1.2 ALUC Action Choices for Plans of Existing Airports**

When reviewing airport master plans or expansion plans for existing airports, the ALUC has three action choices:

- (a) Find the airport plan consistent with the ALUPP.
- (b) Find the airport plan inconsistent with the ALUPP.
- (c) Modify the ALUPP (after duly noticed public hearing) to reflect the assumptions and proposals in the airport plan.

### **2.6.1.3 ALUC Action Choices for Reviews of New Airports or Heliports**

When reviewing proposals for new airports or heliports, the ALUC's choices of action are:

- (a) Approve the proposal as being consistent with the specific review policies listed in Section 2.6.3.
- (b) Approve the proposal and adopt an ALUPP for that facility. State law requires adoption of such a plan if the airport or heliport will be a public-use facility (California Public Utilities Code Section 21675(a)).
- (c) Disapprove the proposal on the basis that the noise, safety, airspace protection, and overflight impacts it would have on surrounding land uses are not adequately mitigated.

### **2.6.1.4 Response Time**

The ALUC must respond to a local jurisdiction's submittal of an airport master plan or development plan within 60 days from the date of referral (California Public Utilities Code Section 21676(d)).

- (a) If the ALUC fails to make a determination within that period, the proposed action shall be deemed consistent with the ALUPP.
- (b) Regardless of ALUC action or failure to act, the proposed action must comply with other applicable local, state, and federal regulations and laws.
- (c) The referring agency shall be notified of the ALUC's action in writing.

## **2.6.2 Review Criteria for Master or Development Plans of Existing Airports**

### **2.6.2.1 Substance of Review**

When reviewing new or modified airport master plans or development plans for existing airports, the ALUC shall determine whether activity forecasts or proposed facility development identified

in the plan differ from the forecasts and development assumed for that airport in this ALUPP. Attention should specifically focus on:

- (a) Activity forecasts that:
  - (1) are significantly higher than those in the ALUPP; or
  - (2) include a higher proportion of larger or noisier aircraft.
- (b) Proposals to:
  - (1) construct a new runway or helicopter takeoff and landing area;
  - (2) permanently change the length, width, or landing threshold location of an existing runway; or
  - (3) establish an instrument approach procedure.

### **2.6.2.2 Consistency Determination**

The ALUC shall determine whether the proposed airport plan or development plan is consistent with the ALUPP. The ALUC shall base its determination of consistency on:

- (a) Findings that the forecasts and aviation-related development identified in the airport plan would not result in greater noise, overflight, or safety impacts or height restrictions on surrounding land uses than are assumed in the ALUPP.
- (b) A determination that any non-aviation development proposed for within the airport boundary will be consistent with the Safety Zone Compatibility Summary set forth in Table 2-2.

## **2.6.3 Review Criteria for Proposed New Airports or Heliports**

### **2.6.3.1 Substance of Review**

In reviewing proposals for new airports and heliports, the ALUC shall focus on the noise, overflight, safety, and airspace protection impacts upon surrounding land uses.

- (a) Other types of environmental impacts (e.g., air quality, water quality, natural habitats, vehicle traffic, etc.) are not within the scope of ALUC review.
- (b) The ALUC shall evaluate the adequacy of the proposed facility design (in terms of federal and state standards) only to the extent that the design affects surrounding land use. The ALUC does not have the authority to make a determination of conformance with federal and state standards.
- (c) The ALUC must base its review on the proposed airfield design. The ALUC does not have the authority to require alterations to the airfield design.

- (d) The review shall examine the relationships between existing and planned land uses in the vicinity of the proposed airport or heliport and the impacts that the proposed facility would have upon these land uses.

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